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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,809	10/19/2001	Dietmar Rudolph	20811/0204775-US0	8344
7278	7590	11/15/2007	EXAMINER	
DARBY & DARBY P.C.			JAMAL, ALEXANDER	
P.O. BOX 770			ART UNIT	PAPER NUMBER
Church Street Station			2614	
New York, NY 10008-0770			MAIL DATE	DELIVERY MODE
			11/15/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/980,809

Applicant(s)

RUDOLPH, DIETMAR

Examiner

Alexander Jamal

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4, 6-8 and 10-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Based upon the submitted amendment (8-29-2007), the examiner notes that claims 4,7,14 have been amended and claims 1-3,5,9 are cancelled.
2. Examiner withdraws the previously stated allowability of claims 7,8,10-13, and submits of a new set of non-final rejections for all claims.
3. As per the included interview summary, examiner notes that applicant has admitted the 'multi-stage modulator', 'internet', 'data base storing', 'automatic switchover' and 'frequency prognosis' terms in the claims are –not- described in the specification, and are read to be well known terms that one of skill in the art would obviously apply to applicant's claimed invention (or to any other invention in the same field).

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 4,8,12-14,6,7,10,11** are rejected under 35 U.S.C. 102(e) as being anticipated by Kleider et al. (6084919).

As per **claim 4**, Kleider discloses a system that performs a method to improve the quality by controlling the parameters of a digital radio transmission (ABSTRACT, Fig. 5). The method comprises receiver 16 (Fig. 2) adjacent to target area 14 that evaluates quality data via blocks 34,36, to determine parameters C,F,B,P,b that are transmitted automatically to transmitter 12. Kleider discloses that the wireless network may be connected to the internet (Col 1 lines 10-20). The channel classification monitor 26, in combination with block 34 perform a frequency prognosis via transmitted parameters Cce' and F for the purpose of influencing the channel coder 22 and source coder 20 of the transmitter. The parameters are stored in spectrum table memory 27. The parameters also need to inherently be stored at every processing stage of the system and method for the purpose of allowing the digital processing to occur.

As per **claim 8**, it is rejected as per the claim 4 rejection. The multi mode modulator can vary the transmit frequencies of the system (Col 4 lines 30-45).

As per **claims 12,13**, they are rejected as per the claim 8 rejection. The block 34 of Fig. 2 comprises a feedback channel that increases reception quality and coverage reliability by preselecting better coding/modulation.

As per **claim 14**, it is rejected as per the claim 12 rejection. Kleider discloses (Col 4 lines 30-40) that the multi mode modulator can vary the type of modulation. Examiner notes that a QAM modulation (which is well known is spread spectrum communications) may have any number of different stages (carriers). Examiner reads

each of these as a different 'type' and notes that the modulator and channel interleaver would function to vary the number of stages in order to increase transmission quality.

As per **claims 6,10**, the transmission is wirelessly broadcast (Fig. 5).

As per **claims 7,11**, they are rejected as per **claim 4**.

### Response to Arguments

1. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Jamal whose telephone number is 571-272-7498. The examiner can normally be reached on M-F 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A Kuntz can be reached on 571-272-7499. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and **571-273-8300** for After Final communications.

Examiner Alexander Jamal



November 12, 2007